

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

RICARDO VARGAS, JR.,

Petitioner,

v.

SUPERINTENDENT KAUFFMAN, et al.,

Respondents.

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CIVIL ACTION NO. 19-4227

**ORDER**

**AND NOW**, this 29th day of January, 2021, after considering the petition under 28 U.S.C. § 2254 for a writ of habeas corpus filed by the *pro se* petitioner, Ricardo Vargas, Jr. (Doc. No. 1), the response in opposition to the petition filed by the respondents (Doc. No. 9), and United States Magistrate Judge Elizabeth T. Hey's report and recommendation (Doc. No. 13); and no party having filed objections to the report and recommendation, it is hereby **ORDERED** as follows:

1. The clerk of court is **DIRECTED** to **REMOVE** this action from civil suspense and **RETURN** it to the court's active docket;
2. The Honorable Elizabeth T. Hey's report and recommendation (Doc. No. 13) is **APPROVED** and **ADOPTED**;<sup>1</sup>
3. The petitioner's petition for a writ of habeas corpus (Doc. No. 1) is **DENIED**;
4. The petitioner has not made a substantial showing of the denial of a constitutional right and is therefore not entitled to a certificate of appealability, 28 U.S.C. § 2253(c)(2); and

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<sup>1</sup> Since neither party filed objections to Judge Hey's report and recommendation, the court need not review the report before adopting it. *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987). Nonetheless, "the better practice is for the district judge to afford some level of review to dispositive legal issues raised by the report." *Id.* As such, the court will review the report for plain error. *See Oldrati v. Apfel*, 33 F. Supp. 2d 397, 399 (E.D. Pa. 1998) ("In the absence of a timely objection, . . . this Court will review [the magistrate judge's] Report and Recommendation for clear error." (internal quotation marks omitted)). The court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). The court has reviewed Judge Hey's report for plain error and has found none.

5. The clerk of court shall mark this case as **CLOSED**.

BY THE COURT:

/s/ Edward G. Smith  
EDWARD G. SMITH, J.